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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,535	10/07/2003	Donald E. Mabe JR.	ATTD-1001USDIV	5006
7590	07/13/2004		EXAMINER	
KNOBLE & YOSHIDA, LLC Eight Penn Center, Suite 1350 1628 John F. Kennedy Blvd. Philadelphia, PA 19103			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/680,535	MABE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Mitra Aryanpour	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 October 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7 &amp; 27 Oct. 2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15- rejected under 35 U.S.C. 103(a) as being unpatentable over Morse (298,111) in view of Bey (1,324,789).

Regarding claim 15, Morse shows a billiard cue having a proximal (the butt end - section A) and a distal (the tip end – sections C, D and E or alternatively sections B, C, D and E or any combination thereof) portion, said cue comprising: a grip portion (the handle section A) located on the proximal portion (section A) of said cue; a tip (G) suitable for striking a billiard ball located on a distal end (E) of said distal portion of said cue, and wherein said distal portion (sections C, D and E) comprises up to half of the length of said billiard cue (best seen in figure 1) is less than half the length of the billiard cue). Morse additionally, shows that weights (hh) can be added to the pockets (the cylindrical openings positioned at the joint between the sections). The weights can be light or heavy and added as deemed necessary to meet the requirements of the individual user (see page 1, column 2, lines 71-96; also figures 3 and 6). Morse does not disclose expressly the use of a slidable grip. Bey shows a cue, wherein the cue has a movable grip (13) that moves relative to the cue, provided to enable more accurate shooting and to assist in drawing the cue ball. In view of Bey it would have been obvious to include a movable grip on the distal portion of Morse's billiard cue, the motivation being to enable more accurate shooting and to assist in drawing the cue ball.

Regarding claims 16-18, Morse shows the billiard cue is made of two or more sections (A, B, C, D and E). Morse does not disclose expressly the amount of variation in the diameter between the sections. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to varying the diameter of the billiard cue to meet the specified amounts, because Applicant has not disclosed that varying the diameter to meet the specified amounts, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the diameter as taught by Morse or the claimed diameters because both diameters perform the same function of allowing a player to strike a billiard ball. Therefore, it would have been an obvious matter of design choice to modify Morse to obtain the invention as specified in claims 16-18.

Regarding claim 19, Morse shows the distal portion (combination of sections C, D and E) of said billiard cue comprises is less than 50% of the total length of said billiard cue Morse shows that weights (hh) can be added to the pockets within the cylindrical openings positioned at the joint of the sections; the weights can be light or heavy and added as deemed necessary to meet the requirements of the individual user (see page 1, column 2, lines 71-96; also figures 3 and 6), and the proximal portion (section A) comprises the remaining length of the billiard cue (see figure 1).

Regarding claim 20, Morse shows the distal portion (sections C, D and E) of the billiard cue has a weight, which is about 60-80% of the total weight of the billiard cue. Note the rejection of claim 19. The weight can be varied to meet any desired requirement.

Regarding claim 21, Morse shows the billiard cue comprises two or more section (A, B, C, D and E) which are releasably attachable (threaded screws f and cylindrical nuts g) to one another, and at least one of the sections (E) is located in said distal portion of said cue and has a substantially greater density (as indicated in claims 19 and 20, the weights can be adjusted to suit the individual need) than the other sections (see page 1, column 2, lines 71-96).

Regarding claim 22, Morse shows one of said sections form the entire distal portion of said cue (see page 1, column 1, lines 12-18). Morse teaches that the pool cue/cane can be made in two or more sections. The more sections the more compact the assembly.

Regarding claim 23, Morse shows the tip (G) is releasably attachable (the tip can be unscrewed) to the distal end (E) of said cue (see page 2, column 1, lines 49-54).

Regarding claim 24, Morse shows the tip (G) comprises a surface for striking a billiard ball, and an elastomeric material (the broadest reasonable interpretation of elastomeric would include elastic cue tip G) attached to said surface, said elastomeric material being sized to fit snugly over the distal end of said billiard cue to releasably secure said tip to the distal end of said billiard cue (see figures 8, 11-13).

Regarding claims 25 and 26, Morse shows the tip can be formed from an elastic material such as leather or similar material. Morse does not disclose expressly the specific material that can be used to form the tip. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a tip made from neoprene or liquid steel, because Applicant has not disclosed that using a liquid steel tip or a neoprene tip, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform

equally well with either the tip taught by Morse or the claimed tip(s) because both tips perform the same function of striking a billiard ball. Therefore, it would have been an obvious matter of design choice to modify Morse to obtain the invention as specified in claims 25 and 26.

Regarding claim 27, Morse and modified in view of Bey shows said grip (13) comprises a tubular elastomeric material which can be stretched and slipped over the proximal end of the proximal portion of said cue (page 1, column 1, lines 51,-56; column 2, lines 57-59).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Easthope et al (291,703).

Regarding claim 28, Easthope et al discloses a tip (A) for a billiard cue, which comprises a surface for striking a billiard ball, and an elastomeric material (the broadest reasonable interpretation of an elastomeric material would include rubber tip A) attached to said surface, said elastomeric material being sized to fit snugly over the distal end of said billiard cue to releasably secure said tip to the distal end of said billiard cue.

Regarding claim 30, Easthope et al shows the surface of said tip is made from neoprene. It should be noted that the broadest reasonable interpretation of an elastomeric material would include rubber tip A. Neoprene is a synthetic rubber.

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5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Easthopeet al (291,703).

Regarding claim 29, Easthope et al does not disclose expressly the use of a tip made from liquid steel. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to utilize a liquid steel tip, because Applicant has not disclosed that utilizing a liquid steel tip, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the tip taught by Easthope et al or the claimed tip because both tips perform the same function of striking a billiard ball. Therefore, it would have been an obvious matter of design choice to modify Easthope et al to obtain the invention as specified in claim 29.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wolpert; Brochstein; Merlola; Waldo; Nyhagen; Piga; Reinhart; Possum et al; Medbury; Liu et al; Lower et al; Moe et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA  
9 July 2004



Mitra Aryanpour  
PATENT EXAMINER